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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,877	07/31/2003	Jes Tougaard Gram	CU-3620	1811

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EXAMINER

NGUYEN, THUKHANH T

ART UNIT	PAPER NUMBER
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1791

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/631,877	Applicant(s) GRAM, JES TOUGAARD	
	Examiner THU KHANH T. NGUYEN	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 11-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11-23 are again rejected under 35 U.S.C. 102(b) as being anticipated by Glover et al (4,744,741).

Glover et al teach a combined mold carrier and linkage apparatus, comprising a first mold plate (11) having a first molding profile (18) and a second mold plate (13) having a second molding profile (18), and a plurality of middle parts (17) with middle profiles (20) wherein the middle parts (17) are turntable between the first mold plate and the second mold plate, wherein the first, second mold plates and the middle parts form a plurality of mold cavities (30), wherein the mold plates (11, 13) and the middle parts are separated from each other during loading/unloading process (Fig. 3) and attached to each other during molding process (Fig. 2).

Wherein the front part and the middle parts are separatable from each other (Fig. 2), the order of opening and closing of the mold parts, and the order of filling/molding products in the mold cavities are the intended use of the apparatus, which Glover is capable of performing. A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

In regard to claims 12-13, wherein the middle parts can be rotated about 180 in a vertical direction (col. 5, lines 22-29).

In regard to claim 14, wherein the middle part (17) having back profile, or mold cavities on both sides (col. 5, lines 22-24).

In regard to claim 15, wherein the middle part further includes an air gap (28) for heat insulating between the middle part and the mold plate (19; col. 7, lines 53-60).

In regard to claims 16-17, wherein the mold plates, or the front and back part, includes mold profiles , or mold cavities (Fig. 2, 18, 33).

In regard to claims 18 and 20, wherein the apparatus further comprises an ejector pin, or a coupling pin (24) for securing and detaching the middle part from the mold frame (col. 6, lines 53-65).

In regard to claims 21-23, wherein the apparatus is capable of using with different type of materials (col. 2, line 56 to col. 3, line 2). “Expressions relating the apparatus to contents thereof during an intended operation are of no significance in determining patentability of the apparatus claim.” *Ex parte Thibault*, 164 USPQ 666, 667 (Bd. App. 1969). Furthermore, “[i]nclusion of material or article worked upon by a structure being claimed does not impart patentability to the claims.” *In re Young*, 75 F.2d 996, 25 USPQ 69 (CCPA 1935) (as restated in *In re Otto*, 312 F.2d 937, 136 USPQ 458, 459 (CCPA 1963)). MPEP § 2115.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1791

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glover et al ('741) as applied to claims 11-18 and 20-23 above, and further in view of Watanabe ('5,196,213).

Glover et al fails to disclose a ball screw ejector mechanism.

Watanabe, however, discloses that ball-screw mechanism ejector mechanisms are known in the art for the purpose of taking molded articles off and out of mold parts. (col. i, ii. 13-36).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Glover et al to have the middle part further comprise a ball-screw ejector mechanism because such structures are known to allow for the discharge of molded articles from the mold parts as suggested by Watanabe in order to improve the removal of the molded articles from the mold cavities.

Response to Arguments

5. Applicant's arguments filed December 26, 2007 have been fully considered but they are not persuasive. The applicant argued that the claimed machinery is operated different than that of the prior art (Glover). However, the intended use of the apparatus, cannot be used to determine the patentability of apparatus claims. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

Art Unit: 1791

In this case, Glover discloses that the first molding part and second molding part are pre-molded on two different mold cavities, then molded together to produce a final product while these molding parts are still in the molded state (col. 1, lines 64-67). The final product includes the first part located inside a second part (Fig. 1, 1 & 3). Although Glover discloses that the molding parts are formed co-currently, in order to save time, its final product is the same of those claimed by the current invention. Furthermore, claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device *is*, not what a device *does*." *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). (Emphasis in original)

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1791

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to THU KHANH T. NGUYEN whose telephone number is (571)272-1136. The examiner can normally be reached on Monday- Friday, 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gupta Yogendra can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yogendra N Gupta/
Supervisory Patent Examiner, Art Unit 1791

TN